

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

MIGUEL AMEZOLA,

Plaintiff,

VS.

BENTON COUNTY CORRECTIONAL CENTER,

Defendant.

NO. CV-13-0239-LRS

**ORDER DENYING *IN FORMA
PAUPERIS* STATUS AND DISMISSING
COMPLAINT**

By Order filed August 16, 2013, the Court directed Plaintiff, a prisoner detained at the Northwest Detention Center in Tacoma, Washington, to either comply with 28 U.S.C. § 1915(a)(2), which requires prisoners who seek to bring a civil action without prepayment of the filing fee to submit a certified copy of their trust fund account statement (or institutional equivalent) for the 6-months immediately preceding the filing of the complaint on June 24, 2013, or to pay the applicable fee of \$400.00 (\$350.00 filing fee plus \$50.00 administrative fee) to commence this action under 28 U.S.C. § 1914. Plaintiff did not comply and has filed nothing further in this action.

The Ninth Circuit has determined that the filing fee provisions of 28 U.S.C. § 1915 do not apply to an alien detainee appealing a BIA decision so long as the detainee is also not facing criminal charges. *Agyeman v. INS*, 296 F.3d 871, 885–85 (9th Cir. 2002). Here, Mr. Amezola, did not specify the nature of his current detention. Indeed, he indicated on the *in forma pauperis* application that his is not currently incarcerated,

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1 but then proceeded to complete and sign the form, including an acknowledgment and
2 authorization regarding his obligation to pay the \$350.00 filing fee. In addition, on the
3 complaint form, Mr. Amezola is seeking to challenge the conditions of his confinement
4 while he was a prisoner at the Benton County Jail. Therefore, the Court will presume
5 Plaintiff is a “prisoner” for purposes of the filing fee provisions of 28 U.S.C. § 1915.

6 Having failed to comply with the Court’s directive, **IT IS ORDERED** Plaintiff’s
7 application to proceed *in forma pauperis* is **DENIED** for failure to comply with 28
8 U.S.C. § 1915(a)(2) and this action is **DISMISSED without prejudice** for failure to pay
9 the filing fee under 28 U.S.C. § 1914.

10 **IT IS SO ORDERED.** The District Court Executive is directed to enter this
11 Order, enter judgment and forward a copy to Plaintiff at his last known address. The
12 Court certifies any appeal of this dismissal would not be taken in good faith.

13 **DATED** this 17th day of September, 2013.
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15 *s/Lonny R. Sukko*

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17 LONNY R. SUKO
UNITED STATES DISTRICT JUDGE
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